

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**DOUGLAS HILLMAN, CASEY
MALMBERG, MATTHEW NELSON,
RALPH ROBALIK, MARK
ROSENTHAL, SHAWN SMITH, and
RONALD WALKER II,**

Plaintiffs,

v.

**HEARTLAND AUTOMOTIVE
SERVICES,**

Defendant.

CASE NO. 8:06CV46

**ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT
AND FINAL JUDGMENT**

THIS MATTER came before the Court on September 11, 2006, on a joint motion by the parties for approval of the settlement set forth in the Joint Stipulation of Settlement and Release ("Stipulation of Settlement"). I have carefully reviewed the joint motion and the Memorandum of Law filed in Support of Joint Motion for Approval of Settlement, the Affidavit of Rachhana T. Srey and the attachments thereto, including the Stipulation of Settlement, Notice of Settlement, Settlement Approval and Release of Claims Form, and the Final Settlement Allocations spreadsheet. (Filing No. 32). I have also considered the judicial decisions from the *Smith, et al. v. Heartland Auto. Servs. Inc.*, Case No. 04-CV-1430 (D. Minn.) and the *Brask, et al. v. Heartland Auto. Servs. Inc.*, Case No. 06-CV-11 (D. Minn.) cases that were attached to the Srey Affidavit. (Filing No. 32, Ex. D and E).

Based on my review of these documents and the record herein, the Court finds the parties are embroiled in a bona fide dispute as to whether the Plaintiffs were improperly classified as executive exempt employees or whether Plaintiffs' main job responsibility was management, the resolution of which would dictate whether the Plaintiffs were denied

overtime compensation in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”). Given this dispute, the Court also finds that the conditions of settlement set forth in the Stipulation of Settlement are fair, reasonable, and in the best interests of the Plaintiffs and satisfy the FLSA. For these reasons,

IT IS ORDERED:

1. The Joint Motion for Final Approval of Settlement (Filing No. 27) is granted;
2. By this reference, the definitions in the Stipulation of Settlement are incorporated in this Order and all terms used herein shall have the same meanings set forth in the Stipulation of Settlement;
3. Pursuant to the procedures for a collective action under the Fair Labor Standards Act and as otherwise required, this Court hereby approves the settlement set forth in the Stipulation and Settlement and finds that the settlement, in all respects, is fair and reasonable;
4. This Court has jurisdiction over subject matter and the parties and retains continuing jurisdiction over (a) implementation of this settlement and any award or distribution of the settlement payments; and (b) construction, enforcement and administration of the Stipulation of Settlement; and
5. The Complaint and all claims in this action are hereby dismissed with prejudice.

DATED this 19th day of September, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge